IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 11981 of 2007(B)

AGAINST THE ORDER DATED 27/02/2007 IN IN CP 505/2006 IN OS.197/2003 of SUB COURT,THRISSUR

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PETITIONER:

SARADA PUSHKARAN, KOTTARACKAL HOUSE,
KUTTU P.O., THRISSUR DISTRICT.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:
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1. SWATHANTHRA KURIES (PVT.),
CHEMBUKAVU VILLAGE,
THRISSUR REPRESENTED BY ITS CHAIRMAN.

2. K.N.PADMAJAN, S/O.KOTTAKKAL NARAYANAN,
KATTUR VILLAGE,THRISSUR.

3. JALAHA PADMAJAN, W/O.K.N.PADMAJAN,
KATTUR VILLAGE,THRISSUR.

4. VIJAYAN, S/O.VADAKKOOT RAMANKUTTY,
PLANGAD DESAM,ORUMANAYOOR VILLAGE,
THRISSUR.

R1 BY ADV. SRI.G.SREEKUMAR (CHELUR)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF SECURITY BOND DTD.10.9.98 EXECUTED IN FAVOUR OF 1ST RESPONDENT.**

EXT.P2 **TRUE COPY OF O.S.197/03 ON THE FILE OF THE SUB COURT, THRISSUR.**

EXT.P3 **TRUE COPY OF JUDGMENT DTD.13.9.06 IN OS 197/03.**

EXT.P4 **TRUE COPY OF THE DECREE DTD, 13.9.06 IN O.S.197/03.**

EXT.P5 **TRUE COPY OF THE EP 505/06 ON THE FILE OF THE SUB COURT, THRISSUR.**

EXT.P6 **TRUE COPY OF OBJECTIONS FILED BY THE PETITION IN EP 505/06.**

EXT.P7 **TRUE COPY OF THE ORDER DTD. 27.2.07 IN E.P.505/06.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 11981 OF 2007

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Dated this the 6th day of June, 2007.

J U D G M E N T

This writ petition is preferred against the order of the learned Sub Judge, Thrissur who has ordered attachment of salary of Rs.2,000/- from the salary of the writ petitioner. The learned counsel for the writ petitioner submits that her client is only a nurse in the Medical College Hospital and also only a surety to the transaction and the decree holder is proceeding against her without proceeding against the principal judgment debtor, just to harass her and put her into hardship.

2. I ascertained from the learned counsel for the writ petitioner what according to her is the salary of writ petitioner and she would submit that it is about Rs.7,304/- per month. As per S.60 of the Code of Civil Procedure Rs.1,000/- has to be initially excluded and 2/3 of the balance has also to be excluded from attachment. If this is done even then there will be an attachable salary of Rs.2,000/-. So, I do not find any infirmity in the order of the trial court in ordering attachment of Rs.2,000/-. At that stage the learned counsel for the writ petitioner submitted that in stead

of effecting an order of attachment she may be permitted to pay at the rate of Rs.2,000/- at least for the statutory period of 24 months of attachment and thus save her from the harassment of attachment of salary. The learned counsel for the decree holder also does not have any serious objection provided he gets the money. So, instead of ordering attachment of salary I direct the present writ petitioner to pay at the rate of Rs.2,000/- per month for a period of 24 months to the decree holder. The first payment shall be made on 5.07.2007 and thereafter on the 5th day of every month, i.e., after the receipt of salary. The learned Sub Judge is directed not to issue salary attachment at least for the next three months. If the writ petitioner commits default in making the payment of two or more instalments then she will be loosing the benefit given in this order and the Sub Judge is at liberty to issue order of attachment of the salary of the writ petitioner.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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